

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

LARRY SKOGEN and JACE
SKOGEN,

Plaintiffs,

vs.

DAVID KOSOLA, AUSTIN
HECKER, STEVE HADDON, and
STATE OF MONTANA,

Defendants.

CV-16-50-H-DLC-JTJ

**CLARIFICATION OF FINDINGS
AND RECOMMENDATIONS**

Defendants filed a Motion to Clarify Findings and Recommendations on June 14, 2017, arguing that there is an inconsistency between the recommendations contained in the Synopsis and Recommendation sections of the Court's Findings and Recommendations in the above captioned matter and the Analysis section. (Doc. 19.) The Court agrees and issues the following clarification:

The Court finds:

1. Based solely on the allegations in the Complaint, Deputies Hecker and Kosola did not have probable cause to arrest Larry and Jace and are not protected by qualified immunity for Counts 1 and 2;
2. Larry's allegations against Deputy Hecker in Count 2 fail to state a claim upon which relief may be granted because the allegations in the Complaint contain nothing more than a bald assertion that Deputy Hecker violated Larry's rights under the Montana Youth Court Act.
3. The Complaint fails to state a claim for relief on Count 3 because there are no allegations that any statements were used against Jace at trial;
4. Jace Skogen has a meaningful post-deprivation remedy that bars recovery on Count 4;
5. The allegations in the Complaint fail to state a valid claim in Count 5;
6. Count 6 fails as a matter of law because the doctrine of absolute immunity protects Defendant Steve Haddon from the claim; and
7. The Skogens failed to properly serve the State of Montana as required to challenge the constitutionality of Mont. Code Ann. § 45-7-302

The Court recommends that the district court:

1. Deny Defendants' motion as to Count 1;
2. Deny Defendants' motion as to Jace's claim against Deputy Hecker and Larry's claim against Deputy Kosola in Count 2;
3. Grant Defendant's motion and as to Larry's claims against Deputy Hecker in Count 2;
4. Grant Defendants' motion as to Counts 3, 4, 5, and 6.

Dated the 16th day of June 2017.



John Johnston
United States Magistrate Judge